

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARIO CAMACHO,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:20-cv-00488-RCJ-WGC

ORDER

This action is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, by Mario Camacho, a Nevada prisoner. On August 26, 2020, the Court received from Camacho, for filing, a Petition for Writ of Habeas Corpus (ECF No. 1-1), a Motion for Appointment of Counsel (ECF No. 1-2), and an Application to Proceed *in Forma Pauperis* (ECF No. 1). On August 31, 2020, Camacho filed a further Application to Proceed *in Forma Pauperis* (ECF No. 4) and a further Motion for Appointment of Counsel (ECF No. 5).

The financial certificate filed by Camacho with his second Application to Proceed *in Forma Pauperis* (ECF No. 4) shows that he is able to pay the \$5 filing fee for this action. The Court will, therefore, deny the Applications to Proceed *in Forma Pauperis* and will require Camacho to pay the filing fee. The requirement that Camacho must pay the filing fee will be suspended, however, until after counsel appears for Camacho.

Prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The court may, however, appoint counsel at any stage of the proceedings if the interests of justice so require.

1 See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254 Cases; *Chaney*,
2 801 F.2d at 1196. The Court finds that this case will likely be too complex for Camacho
3 to litigate pro se, and that appointment of counsel is in the interests of justice. The Court
4 will grant Camacho's Motions for Appointment of Counsel (ECF Nos. 1-2 and 5).

5 The Court has examined Camacho's petition, pursuant to Rule 4 of the Rules
6 Governing Section 2254 Cases in the United States District Courts and determines that
7 it merits service upon the respondents. The Court will order the petition served upon the
8 respondents, and will direct the respondents to appear, but will not require any further
9 action on the part of the respondents at this time.

10 **IT IS THEREFORE ORDERED** that the Clerk of the Court shall separately file
11 the Petition for Writ of Habeas Corpus (ECF No. 1-1) and the petitioner's first Motion for
12 Appointment of Counsel (ECF No. 1-2).


13 **IT IS FURTHER ORDERED** that the Applications to Proceed *in Forma Pauperis*
14 (ECF Nos. 1 and 4) are **DENIED**. The Court will set a deadline for payment of the filing
15 fee after counsel appears for the petitioner.

16 **IT IS FURTHER ORDERED** that Petitioner's Motions for Appointment of Counsel
17 (ECF Nos. 1-2 and 5) are **GRANTED**. The Federal Public Defender for the District of
18 Nevada (FPD) is appointed to represent the petitioner. If the FPD is unable to represent
19 the petitioner, because of a conflict of interest or for any other reason, alternate counsel
20 will be appointed. In either case, counsel will represent the petitioner in all federal court
21 proceedings relating to this matter, unless allowed to withdraw.

22 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve
23 upon the FPD a copy of this order, together with a copy of the Petition for Writ of
24 Habeas Corpus (ECF No. 1-1).

25 **IT IS FURTHER ORDERED** that the FPD will have 30 days from the date of this
26 order to file a notice of appearance, or to indicate to the Court its inability to represent
27 the petitioner in this case.
28

IT IS FURTHER ORDERED that the respondents will have 30 days from the date of this order to appear in this action. Respondents will not be required to respond to the habeas petition at this time.


ROBERT C. JONES,
UNITED STATES DISTRICT JUDGE